

The 23rd March, 1995

No. 14/13/87-6Lab./418.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947) the Governor of Haryana is pleased to publish the following award of Presiding Officer, Industrial Tribunal-cum-Labour Court, Rohtak in respect of the dispute between the workman and the management of M/s Priya Clay (P) Ltd., Kila Zaffargarh (Jind) *versus* Chander Singh :—

IN THE COURT OF SHRI P. L. KHANDUJA, PRESIDING, OFFICER, INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT, ROHTAK

Reference No. 153 of 1994

between

SHRI CHANDER SINGH, S/O SHRI BANWARI LAL, WARD NO. 2, JULANA
(JIND), WORKMAN

and

THE MANAGEMENT OF M/S PRIYA CLAY (P) LTD., KILA ZAFFARGARH (JIND)

Present :—

Shri M. C. Bhardwaj, Authorised Representative for the workman.

Shri S. Kaushal, Authorised Representative of the management.

AWARD

In exercise of the powers conferred by Sub Clause (c) of Sub Section (1) of Section 10 of the Industrial Disputes Act, 1947, the Governor of Haryana has referred the following dispute, between the parties, named above, to this Court, for adjudication,—*vide* Labour Department Endorsement No. OV/Hlsar/48-91/33050—55, dated 4th September, 1991 :—

Whether the services of Shri Chander Singh have been terminated or he left the services by tendering resignation? To what relief he is entitled after the decision on this point?

2. The workman and the management were summoned. The workman appeared and filed the claim statement that he was appointed as Store-Keeper by the respondent company with effect from 2nd April, 1986 and had joined the services of the respondent as such from 2nd April, 1986. B.S.I. Card was also issued to him. The respondent company/employer is an industry as defined in the Industrial Disputes Act and the applicant was working as Store-keeper and so he was the workman in the industry. The applicant worked sincerely without giving any kind of opportunity to the employer for any kind of complaint in his working and his work was satisfactory throughout. Surprisingly the applicant was kicked out from the employment on 2nd February, 1990 and was not permitted to do his duty nor allowed to mark his presence nor allowed to enter the premises of the company. He was not given compensation nor offered by the employer. Hence removal of the applicant from service of the respondent is void *ab-initio*, illegal, improper, unjustified and is in breach of statutory provisions of Section 25-F of the Industrial Disputes Act, as it has engaged more than one hundred employees. The workman cannot be retrenched without complying with the provisions of Industrial Disputes Act and prior permission of appropriate authority was not taken. Hence this claim statement was filed that he be reinstated and the action of the respondent for removal of applicant from service is illegal, unjust and improper.

3. The management appeared and filed the written statement that the reference is not competent and is liable to be dismissed; the demand notice was filed by the Conciliation Officer, hence subsequently reference by the Government is not competent; the applicant joined his duty with effect from 2nd April, 1986 but not as a store keeper. There was no termination 2nd February, 1990. The demand notice was served for the first time on 12th September, 1990, which itself explains the conduct of the applicant. The workman started absenting himself from duty. The management received the letter, dated 15th February, 1990 when applicant resigned and taken all his dues for the months of January & February, 1990 on his request this amount was paid and he was relieved from duties. The applicant is not entitled to any relief as claimed.

4. Replication was filed by the workman. On the pleadings of the parties, the following issues were framed :—

- (1) As per terms of reference.
- (2) Whether the reference is not competent as alleged in preliminary objection No. 1 & 2?
- (3) Whether the petitioner resigned from the service? If so, to what effect?

(4) Relief?

5. My findings on the above issues with reasons thereof are as under :—

Issue No. 1 :

6. The workman has come into witness box as WW-1 and closed his evidence. The management has examined Shri Dharam Pal Sharma as MW-1 and also examined Shri Chatter Singh, Cashier as MW-1 and thereafter evidence was closed.

7. Shri Dharam Pal Sharma MW-1 made the statement that the applicant was appointed in 1984 and he has given the resignation letter Ex. M-1 on 15th February, 1990, workers of the respondent were on strike and he resident at Rohtak. The applicant came to him and given his resignation letter and thereafter the workman/applicant never come to join the duty. The applicant had demanded one month pay which was given he had ordered to give him the pay and the payment, was made to him,—vide Ex. M-2, the workman had gone to the factory and got the payment,—vide Ex M-2. The workman was never retrenched but he had left the job himself. The workman is B.A. passed.

8. When the workman was B.A. passed and he given his resignation he can not be presumed that the management had got signatures on Ex. M-2. Dharam Pal Sharma, Manager of the respondent made the statement that Ex. M-2 was never signed by the applicant in his presence and Ex. M-2 was brought to him and made the order. He further made the statement that on 15th February, 1990, he had taken the payment from the management and Chatter Singh Cashier made the statement that on Ex. M-1, the receipt the workman had signed in his presence.

9. Now the question arises only for decision is whether the workman had given his resignation or not. From the statement of Dharam Pal Sharma and Chatter Singh, Cashier it appears that the applicant had resigned the post,—vide Ex. M-1. The applicant/workman made the statement that he had not given the resignation but he made the statement that Ex. M-1 is signed by him. Ex. M-1 is the resignation letter by Chander Singh to Manager, Priya Kalay (P) Ltd., the respondent/Management. He resigned on 15th February, 1990 and was accepted on 15th February, 1990 and cashier had made the payment to him. Signatures of Chander Singh on Ex. M-1 are similar to the signatures on demand notice and claim statement and both these signatures are of one and the same person.

10. Findings that the applicant was literate person and it is also proved that the signatures on Ex. M-1 is that of the applicant, I am of the view that when the applicant had signed he lost every claim as made by him by the claim statement and reference petition. Hence I decide this issue against the workman and in favour of the management.

Issue No. 2 :

11. This issue is not pressed or argued by the parties. Hence this issue is decided against the management.

Issue No. 3 :

12. As the applicant had resigned from the post as has been held in my finding on issue No. 1. I have no option except to hold that the applicant had resigned from service and hence this issue is decided against the workman and in favour of the management.

Issue No. 4 (Relief) :

13. In view of my findings on the above issues the reference petition of the workman fails and is dismissed. The reference is answered and returned accordingly. The parties are left to bear their own costs.

P. L. KHANDUJA,

The 10th February, 1995.

Presiding Officer,
Industrial Tribunal/Labour Court,
Rohtak.

Endorsement No. ref. 153-94/294, dated the 22nd February, 1995.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh.

P. L. KHANDUJA,

Presiding Officer,
Industrial Tribunal/Labour Court,
Rohtak.